



**THE ATTORNEY GENERAL
OF TEXAS**

November 30, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Phil Nichols
Erath County Attorney
Courthouse
Stephenville, Texas 76401

LO-89-102

Dear Mr. Nichols:

You ask whether a county attorney may reimburse himself for expenses incurred in the official use of his personal automobile from funds collected pursuant to article 102.007 of the Code of Criminal Procedure. You advise that the maximum amount the county auditor will approve for use of a personal automobile for official business is \$.20 per mile. Your concern is directed to the amount of expense incurred over and above \$.20 per mile in the operation of the vehicle on official business.

Numerous opinions from this office have noted that article 102.007 (formerly article 53.08 of the Code of Criminal Procedure) gives the exclusive right to county attorneys, district attorneys and criminal district attorneys in administering the fund to defray the salaries and expenses of the prosecutor's office. See, e.g., Attorney General Opinions JM-967 (1988); JM-738 (1987). While the county auditor has authority to prescribe accounting and control procedures for making deposits and disbursements, see Attorney General Opinion JM-967, expenditures from the fund are at the discretion of the prosecutor within the limits set by article 102.007.

We conclude that the county attorney may reimburse himself for expenses incurred in the official use of his automobile from funds collected pursuant to article 102.007. The amount of reimbursement is governed by the actual expense incurred for the official business in question rather than an amount fixed by the county for county business.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Tom G. Davis", is written over a horizontal line.

Tom G. Davis
Assistant Attorney General
Opinion Committee

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APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Letter Opinion Section

Ref.: ID-8034
RQ-1864